

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

GINGER HAGEMAN,

Plaintiff,

vs.

CAUSE NO. CV 06-09-M-DWM

FINDINGS AND
RECOMMENDATIONS OF
U.S. MAGISTRATE
JUDGE

RICHARD GEBHARDT, Plains City Attorney;
CHIEF SHAWN EMMETT, Plains Police Dept.;
ERNEST CAHALA, Plains Police Officer;
JOE BROWN, County Coroner;
LAURIE SHARP, Deputy Coroner; and
ROBERT ZIMMERMAN, Sanders County Attorney,

Defendants.

GINGER HAGEMAN,
KENT WOOD, and
CHRISTINE WOOD,

Plaintiffs,

vs.

CAUSE NO. CV 06-45-M-DWM

FINDINGS AND
RECOMMENDATIONS OF
U.S. MAGISTRATE
JUDGE

RICHARD GEBHARDT, Plains City Attorney;
CHIEF SHAWN EMMETT, Plains Police Dept.;
ERNEST CAHALA, Plains Police Officer;
JOE BROWN, County Coroner;
LAURIE SHARP, Deputy Coroner;
ROBERT ZIMMERMAN, Sanders County Attorney; and
GENE ARNOLD, Sanders County Sheriff,

Defendants.

This matter comes before the Court on Defendants Gebhardt, Emmett, and Cahalas' Motion to Dismiss and upon Plaintiffs' Amended Complaint. Plaintiff filed a complaint against Defendant on March 21, 2006. These moving Defendants filed their Motion to Dismiss Plaintiffs' complaint on July 10, 2006, alleging Plaintiffs' complaint failed to state a claim upon which relief can be granted. Fed.R.Civ.P. 12(b)(6). The Court granted the Plaintiffs leave to file an amended complaint by September 8, 2006. The Court stated that Plaintiffs' filing of an amended complaint would render the present Motion to Dismiss moot. August 8, 2006 Order at p. 2-3. Plaintiff filed their Amended Complaint against Defendants on September 8, 2006. As Plaintiffs have filed an amended complaint, Defendants' Motion to Dismiss is rendered moot.

Upon consideration of the briefs and materials of record, the Court hereby enters the following:

RECOMMENDATION

Defendants' Gebhardt, Emmett, and Cahalas' Motion to Dismiss should be **DENIED** as moot.

NOW, THEREFORE, IT IS ORDERED that the Clerk shall serve a copy of the Findings and Recommendation of the United States Magistrate Judge upon the parties. The parties are advised that pursuant to 28 U.S. C. § 636, any objections to these findings must be filed with the Clerk of Court and copies served on

opposing counsel within ten (10) days after receipt thereof, or objection is waived.

Dated this 15th day of September, 2006.

/s/ Jeremiah C. Lynch
Jeremiah C. Lynch
United States Magistrate Judge